

ST 03-0163-GIL 10/23/2003 EXEMPT ORGANIZATIONS

This letter describes the requirements for documenting sales to exempt organizations and sales for resale. See 86 Ill. Adm. Code 130.2007. (This is a GIL.)

October 23, 2003

Dear Xxxxx:

This letter is in response to your letter dated June 2, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.1120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

A private, formal letter ruling is hereby requested on the information listed below. AAA is a nationally recognized leader in sales tax software applications and this request is based upon information required for a new product development effort.

The product under development is an Exemption Certificate Management application, which will help our customers manage and track the exemption certificates that are received from their customers.

The areas that need to be addressed are as follows:

1. Certificate Expiration Dates:

A company is purchasing taxable tangible personal property or services. The buyer is purchasing the tangible personal property or service exempt from tax. Therefore, the buyer must present an exemption certificate to the vendor. My questions are as follows:

- a) Does the certificate that a buyer presents to a seller, when making tax exempt purchase, have an assigned expiration date? Another way of stating this question is how long is the exemption certificate in effect?
- b) Is the exemption certificate expiration date the same for the different types of exemptions? For example: will the expiration date be different for a nonprofit exemption and a resale exemption?
- c) Is the exemption certificate expiration date the same as the expiration date of the buyer's business license?
- d) If the certificate does not have a pre-set expiration date, does the state recommend a specific update period in this situation? For example: does the state recommend that a taxpayer update all exemption certificates annually, every second year, or during some other time period?

2. Certificate Number Format/Layout:

Most states require a certificate number to be present on the form. This is a number that has been assigned to the taxpayer presenting the certificate. This number in some cases is the tax registration number, business license number, or the Federal ID number. Because we are working with a software application, please be as specific as possible with details regarding spacing, dashes, letter, numbers, etc. My questions are as follows:

- a) Is there a specific format to the exemption certificate number?
- b) Has the number format been changed recently? If so, are there any previous number formats over the past 5 years that could still be used today?
- c) If the format has been updated is the new number format only being used for new businesses?
- d) Are there different number formats for different types of businesses? For example: is the number format different for a retailer and a contractor?

3. Issued Certificates:

Most states require an exemption certificate form or letter when claiming an exemption. These certificates or letters must be filled out with the required and correct information. My questions are as follows:

- a) Does the state issue a filled in form or letter to the taxpayer claiming the exemption?
- b) Does the state issue a blank form and the taxpayer must fill the form out at the time of the sale?

4. Out-of-State Certificate:

Most states require a state specific exemption certificate form or letter when claiming an exemption. My questions are as follows:

- a) Does the state accept certificates from another state? For example: Can a Florida taxpayer that claims a resale exemption in Georgia use a Florida resale exemption certificate? If so does the taxpayer need to complete a Georgia resale certificate or will the Florida form suffice?

5. Acceptance Date:

Most states specify that an exemption certificate must be obtained within a specified time frame. My questions are as follows:

- a) Does the state allow any grace period for the vendor to obtain a certificate after the first sale?
- b) If the state does allow a grace period, what is the length of time that a certificate can be obtained in good faith? For example: Can an exemption certificate be obtained 90 days after the first sale is made to the customer?

6. Specific Types of Certificate:

Most states require an exemption certificate when claiming an exemption. These certificates could be industry specific or exemption type specific. In some instances only a general exemption certificate is used. My questions are as follows:

- a) Does the state use one certificate or separate certificates for exemptions? For example: does a charitable organization have a different certificate and numbering format from a contractor?
- b) Does the state accept an exemption certificate of a generic design?
- c) Are there industry specific exemption certificates? If so, can you please list them?
- d) Are there certificates that are specific to an exemption? If so, can you please list them
- e) Are there any special rules for American Indian reservations or tribes?
- f) Does the state allow for exempt purchases from businesses registered in Mexico that use the product or service within the state?
- g) Does that state only issue general exemption certificates?

7. Specific Types of Certificate:

Most states have entity/agency specific exemptions that can be claimed. However, the entity/agency must fall within a specific category or business type. My questions are as follows:

- a) Does the state allow for a nonprofit organization exemption? If so, how does the state define a nonprofit organization?
- b) Do the same rules apply to all nonprofit organizations, or are there exceptions?
- c) Does the state allow for a government exemption? If so, what does the state consider a government agency to be?
- d) Does the state consider all government agencies the same?
- e) Is there any distinction between contractors that are registered as a retailer and contractors that are doing work for nonprofit organizations, government agencies, etc?

- f) Can a contractor that is doing work for nonprofit organizations, government agencies, and etc. use the exemption certificate of the nonprofit entity when making purchases?

We appreciate your consideration on the above and thank you in advance for your assistance. The up front inclusion of this information in our database will guarantee the accuracy of our product and avoid any future audit complications for both the state and our customers. If possible, we ask for your response by the end of this month. If this is not possible, we would appreciate notification as to when a response might be forthcoming.

Should you have any questions or require further clarification, please contact me.

DEPARTMENT'S RESPONSE:

In order to make tax free sales of tangible personal property, retailers in Illinois are required to document an exemption at the time a sale takes place in order to receive a point of sale exemption.

The type of certification required to document an exempt sale will depend upon the type of exemption being claimed. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405. Other state's certificates are not allowed unless they contain the necessary information as set out in Section 130.1405. Please note that the purchaser must have an Illinois registration number to properly complete a Certificate of Resale. Blanket Certificates of Resale are allowed and the Department recommends that they be renewed no less frequently than every 3 years. Besides Certificates of Resale, there are many exemptions from Retailers' Occupation Tax in Illinois that require exemption certificates to be given to suppliers in order to document the exemption. Among these are the manufacturing machinery and equipment exemption, 86 Ill. Adm. Code 130.330 and the farm machinery and equipment exemption, 86 Ill. Adm. Code 130.305. These two exemptions may be claimed using the Department's Form ST-587. The rolling stock exemption, 86 Ill. Adm. Code 130.340, may be claimed using the Department's Form RUT-7.

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E- number." See 86 Ill. Adm. Code 130.2007. These E-numbers are valid for five years from issue date and this information is stated on the letter that issues the exemption. This number evidences that this State recognizes that the organization qualifies as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification "E-number." See 86 Ill. Adm. Code 130.2080. If an organization or governmental body does not have an "E" number, then its purchases are subject to tax. Only sales to the organization or governmental body holding the "E" number are exempt, not sales to individual members of the organization. All E-numbers are valid for five years from issue date and this information is stated on the exemption letter issued by the Department. Sales to an exempt entity holding an E-number may be documented by retaining a copy of the exemption letter or by recording the entity's E-number in the seller's books and records. For sales to construction contractors acting on behalf of entities that have been issued E-numbers, please see 86 Ill. Adm. Code 130. 2075(d).

Please note that an E-number exempts purchases only under the Retailers' Occupation Tax Act, Use Tax Act, Service Occupation Tax Act, Service Use Tax Act, and local occupation and use taxes. Exemptions involving other taxes are governed by the provisions of those other tax acts.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

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